

H.R. 4319

The following pages of the bill as introduced on May 10, 2004, show the changes which the Office of the Law Revision Counsel will propose to the Committee on the Judiciary for approval during markup and reporting of the bill.

Revised as of July 15, 2004

When used in reference to
a natural person,

§ 104. Citizen of the United States

"In this title, the term 'citizen of the United States' means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

§ 105. Consular officer

"In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

§ 106. Documented vessel

"In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

§ 107. Exclusive economic zone

"In this title, the term 'exclusive economic zone' means the zone established by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

§ 108. Fisheries

"In this title, the term 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

§ 109. Foreign commerce or trade

"(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

"(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title, and in the context of construction-differential subsidies under title V of the Merchant Marine Act, 1936, the terms 'foreign commerce' and 'foreign trade' also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit United States-flag bulk vessels to compete freely with foreign-flag bulk vessels in their operation or competition for charters, subject to regulations prescribed by the Secretary of Transportation.

§ 110. Foreign vessel

"In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

§ 111. Numbered vessel

"In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

1 "SUBCHAPTER I—GENERAL

2 **"§ 12101. Definition and related terms in other laws**

3 "(a) DEFINITION.—In this chapter, a vessel is 'rebuilt' in the United
4 States only if the entire rebuilding, including the construction of any major
5 component of the hull or superstructure, is done in the United States.

6 "(b) RELATED TERMS IN OTHER LAWS.—When the following terms are
7 used in a law, regulation, document, ruling, or other official act referring
8 to the documentation of a vessel, the following definitions apply:

9 "(1) REGISTRY ENDORSEMENT.—The terms 'certificate of registry',
10 'register', and 'registry' mean a certificate of documentation with a reg-
11 istry endorsement issued under this chapter.

12 "(2) COASTWISE ENDORSEMENT.—The terms 'license', 'enrollment
13 and license', 'license for the coastwise (or coasting) trade', and 'enroll-
14 ment and license for the coastwise (or coasting) trade' mean a certifi-
15 cate of documentation with a coastwise endorsement issued under this
16 chapter.

17 "(3) YACHT.—The term 'yacht' means a recreational vessel even if
18 not documented.

19 **"§ 12102. Vessels requiring documentation**

20 "(a) IN GENERAL.—Except as otherwise provided, a vessel may engage
21 in the coastwise trade or the fisheries only if the vessel has been issued a
22 certificate of documentation with an appropriate endorsement under this
23 chapter.

24 "(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons
25 may engage in a trade without being documented if the vessel otherwise sat-
26 isfies the requirements to engage in the particular trade.

27 "(c) BARGES.—A barge qualified to engage in the coastwise trade may
28 engage in the coastwise trade, without being documented, on rivers, harbors,
29 lakes, canals, and inland waters.

30 **"§ 12103. General eligibility requirements**

31 "(a) REQUIREMENTS.—Except as otherwise provided, a certificate of doc-
32 umentation for a vessel may be issued under this chapter only if the vessel
33 is—

34 "(1) owned only by citizens of the United States;

35 "(2) at least 5 net tons as measured under part J of this subtitle;

36 and

37 "(3) not documented under the laws of a foreign country.

38 "(b) ENTITIES DEEMED CITIZENS.—For purposes of subsection (a)(1),
39 the following entities are deemed to be citizens of the United States:

40 "(1) An association, trust, joint venture, or other entity if each of
41 its members is a citizen of the United States; and

(B) it is capable of holding title to a vessel under the
laws of the United States or a State.

(except the Great Lakes)

-- 9(A)

at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1)

14

INTEREST

1 at each tier of ownership and in the aggregate, is owned and controlled
2 by citizens of the United States.

3 "(2) DETERMINING 75 PERCENT ~~OWNERSHIP~~.—In determining
4 whether ~~the 75 percent ownership requirement of paragraph (1) is sat-~~
5 ~~isfied~~, the Secretary shall apply section 50501(d) of this title, except
6 that for this purpose the terms 'control' or 'controlled'—

7 "(A) include the right to—

8 "(i) direct the business of the entity;

9 "(ii) limit the actions of or replace the chief executive offi-
10 cer, a majority of the board of directors, any general partner,
11 or any person serving in a management capacity of the entity;
12 or

13 "(iii) direct the transfer, operation, or manning of a vessel
14 with a fishery endorsement; but

15 "(B) do not include the right to simply participate in the activi-
16 ties under clause (A), or the exercise of rights under loan or mort-
17 gage covenants by a mortgagee eligible to be a preferred mort-
18 gagee under section 31322(a) of this title, except that a mortgagee
19 not eligible to own a vessel with a fishery endorsement may only
20 operate such a vessel to the extent necessary for the immediate
21 safety of the vessel or for repairs, drydocking, or berthing changes.

22 "(3) EXCEPTIONS.—This subsection does not apply to a vessel when
23 it is engaged in the fisheries in the exclusive economic zone under the
24 authority of the Western Pacific Fishery Management Council estab-
25 lished under section 302(a)(1)(H) of the Magnuson-Stevens Fishery
26 Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a
27 purse seine vessel when it is engaged in tuna fishing in the Pacific
28 Ocean outside the exclusive economic zone or pursuant to the South
29 Pacific Regional Fisheries Treaty, provided that the owner of the vessel
30 continues to comply with the eligibility requirements for a fishery en-
31 dorsement under the Federal law that was in effect on October 1,
32 1998. A fishery endorsement issued pursuant to this paragraph is valid
33 for engaging only in the activities described in this paragraph.

34 "(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSE-
35 POWER.—

36 "(1) APPLICATION.—This subsection applies to a vessel that—

37 "(A) is greater than 165 feet in registered length;

38 "(B) is more than 750 gross registered tons as measured under
39 chapter 145 of this title or 1,900 gross registered tons as meas-
40 ured under chapter 143 of this title; or

1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

“§ 12115. Temporary endorsement for vessels procured outside the United States

“(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States by citizens of the United States.

“(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

“(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

“(d) SURRENDER OF CERTIFICATE.—On the vessel’s arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

“§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

“(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

“(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

“(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

“(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

“(1) satisfies the requirements of section 12103 of this title;

“(2) was not built or rebuilt in the United States;

“(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

“(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been

1 “(F) the corporation buys or produces in the United States at
2 least 75 percent of the raw materials used or sold in its oper-
3 ations.

4 “(2) PARENT.—The term ‘parent’ means a corporation that has filed
5 a certificate under oath with the Secretary, in the form and at the
6 times prescribed by the Secretary, establishing that the corporation—

7 “(A) is incorporated under the laws of the United States or a
8 State; and

9 “(B) controls at least 50 percent of the voting stock of a cor-
10 poration qualifying as a citizen of the United States under clause
11 (1).

12 “(3) SUBSIDIARY.—The term ‘subsidiary’ means a corporation that
13 has filed a certificate under oath with the Secretary, in the form and
14 at the times prescribed by the Secretary, establishing that the corpora-
15 tion—

16 “(A) is incorporated under the laws of the United States or a
17 State; and

18 “(B) has at least 50 percent of its voting stock controlled by
19 a corporation qualifying as a citizen of the United States under
20 clause (1) or by the latter corporation’s parent.

21 “(b) REQUIREMENTS.—A certificate of documentation and appropriate
22 endorsement may be issued for a vessel that—

23 “(1) is owned by a corporation qualifying as a citizen of the United
24 States under subsection (a)(1);

25 “(2) was built in the United States; and

26 “(3) if self-propelled, is less than 500 gross tons as measured under
27 section 14502 of this title, or an alternate tonnage as measured under
28 section 14302 of this title as prescribed by the Secretary under section
29 14104 of this title.

30 “(c) EFFECTS OF DOCUMENTATION.—

31 “(1) IN GENERAL.—Subject to paragraph (2)—

32 “(A) a vessel documented under this section may engage in the
33 coastwise trade; and

34 “(B) the vessel and its owner and master are entitled to the
35 same benefits and are subject to the same requirements and pen-
36 alties as if the vessel were otherwise documented or exempt from
37 documentation under this chapter.

38 “(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A ves-
39 sel documented under this section may transport passengers or mer-
40 chandise for hire in the coastwise trade only—

directly
or indirectly,

"(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

"(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

"(b) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certificate required by this section or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

"(c) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When ~~a charterer terminates~~ a charter required by this section, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

"(d) DEEMED OWNED BY CITIZENS.—For purposes of sections 12103 and 50501 of this title, a vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States.

"§ 12120. Liquefied gas tankers

"Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquefied natural gas or liquefied petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

"(1) is a foreign built vessel that was built before October 19, 1996;

or

"(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

"§ 12121. Small passenger vessels and uninspected passenger vessels

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

"(A) was not built in the United States and is at least 3 years old; or

"(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

"(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

is terminated
for default
by the
charterer

1 **"§ 30307. Commercial aviation accidents**

2 "(a) DEFINITION.—In this section, the term 'nonpecuniary damages'
3 means damages for loss of care, comfort, and companionship.

4 "(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if
5 the death resulted from a commercial aviation accident occurring on the
6 high seas beyond 12 nautical miles from the shore of the United States, ad-
7 ditional compensation is recoverable for nonpecuniary damages for wrongful
8 death, but punitive damages are not recoverable.

9 "(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the
10 death resulted from a commercial aviation accident occurring on the high
11 seas 12 nautical miles or less from the shore of the United States.

12 **"§ 30308. Nonapplication**

13 "(a) STATE LAW.—This chapter does not affect the law of a State regu-
14 lating the right to recover for death.

15 "(b) INTERNAL WATERS.—This chapter does not apply to the Great
16 Lakes, waters within the territorial limits of a State, or navigable waters
17 in the Panama Canal.

18 **"CHAPTER 305—EXONERATION AND LIMITATION OF**
19 **LIABILITY**

"Sec.

"30501. Definition.

"30502. Application.

"30503. Declaration of nature and value of goods.

"30504. Loss by fire.

"30505. General limit of liability.

"30506. Limit of liability for personal injury or death.

"30507. Apportionment of losses.

"30508. Provisions requiring notice of claim or limiting time for bringing action.

"30509. Provisions limiting liability for personal injury or death.

"30510. Vicarious liability for medical malpractice.

"30511. Action by owner for limitation.

"30512. Liability as master, officer, or seaman not affected.

20 **"§ 30501. Definition**

21 "In this chapter, the term 'owner' includes a charterer that mans, sup-
22 plies, and navigates a vessel

23 **"§ 30502. Application**

24 "Except as otherwise provided, this chapter (except section 30503) ap-
25 plies to seagoing vessels and vessels used on lakes or rivers or in inland
26 navigation, including canal boats, barges, and lighters.

27 **"§ 30503. Declaration of nature and value of goods**

28 "(a) IN GENERAL.—If a shipper of an item named in subsection (b), con-
29 tained in a parcel, package, or trunk, loads the item as freight or baggage
30 on a vessel, without at the time of loading giving to the person receiving
31 the item a written notice of the true character and value of the item and
32 having that information entered on the bill of lading, the owner and master

at the charterer's own expense or by
the charterer's own procurement.

1 of the vessel are not liable as carriers. The owner and master are not liable
2 beyond the value entered on the bill of lading.

3 "(b) ITEMS.—The items referred to in subsection (a) are precious metals,
4 gold or silver plated articles, precious stones, jewelry, trinkets, watches,
5 clocks, glass, china, coins, bills, securities, printings, engravings, pictures,
6 stamps, maps, papers, silks, furs, lace, and similar items of high value and
7 small size.

8 **"§ 30504. Loss by fire**

9 "The owner of a vessel is not liable for loss or damage to merchandise
10 on the vessel caused by a fire on the vessel unless the fire resulted from
11 the design or neglect of the owner.

12 **"§ 30505. General limit of liability**

13 "(a) IN GENERAL.—Except as provided in section 30506 of this title, the
14 liability of the owner of a vessel for any claim arising from any cause, on
15 account of that ownership, without the privity or knowledge of the owner
16 ~~is limited to~~ the value of the vessel and pending freight. If the vessel has
17 more than one owner, the proportionate share of the liability of any one
18 owner ~~is limited to~~ that owner's proportionate interest in the vessel and
19 pending freight.

shall not
exceed

20 "(b) NONAPPLICATION.—This section does not apply to a claim for
21 wages.

22 **"§ 30506. Limit of liability for personal injury or death**

23 "(a) APPLICATION.—This section applies only to seagoing vessels, but
24 does not apply to pleasure yachts, tugs, towboats, towing vessels, tank ves-
25 sels, fishing vessels, fish tender vessels, canal boats, scows, car floats,
26 barges, lighters, or nondescript vessels.

27 "(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability
28 determined under section 30505 of this title is such that the portion avail-
29 able to pay claims for personal injury or death is less than \$420 times the
30 tonnage of the vessel, that portion shall be increased to \$420 times the ton-
31 nage of the vessel. That portion may be used only to pay claims for personal
32 injury or death.

33 "(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of
34 a self-propelled vessel is the gross tonnage without deduction for engine
35 room, and the tonnage of a sailing vessel is the tonnage for documentation.
36 However, space for the use of seamen is excluded.

37 "(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of li-
38 ability apply to claims for personal injury or death arising on distinct occa-
39 sions.

1 “(e) PRIVACY OR KNOWLEDGE.—In a claim for personal injury or death,
2 the privacy or knowledge of the master or managing agent, at or before the
3 beginning of each voyage, is imputed to the owner.

4 **“§ 30507. Apportionment of losses**

5 “If the amount determined under sections 30505 and 30506 of this title
6 is insufficient to pay all claimants, the claimants shall be paid in proportion
7 to their respective losses.

8 **“§ 30508. Provisions requiring notice of claim or limiting**
9 **time for bringing action**

10 “(a) APPLICATION.—This section applies only to seagoing vessels, but
11 does not apply to pleasure yachts, tugs, towboats, towing vessels, tank ves-
12 sels, fishing vessels, fish tender vessels, canal boats, scows, car floats,
13 barges, lighters, or nondescript vessels.

14 “(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of
15 a vessel transporting passengers or property between ports in the United
16 States, or between a port in the United States and a port in a foreign coun-
17 try, may not limit by regulation, contract, or otherwise the period for—

18 “(1) giving notice of, or filing a claim for, personal injury or death
19 to less than 6 months after the date of the injury or death; or

20 “(2) bringing a civil action for personal injury or death to less than
21 one year after the date of the injury or death.

22 “(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for
23 personal injury or death is required by a contract, the failure to give the
24 notice is not a bar to recovery if—

25 “(1) the court finds that the owner, master, or agent of the vessel
26 had knowledge of the injury or death and the owner has not been prej-
27 udiced by the failure;

28 “(2) the court finds there was a satisfactory reason why the notice
29 could not have been given; or

30 “(3) the owner of the vessel fails to object to the failure to give no-
31 tice.

32 “(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor
33 or mental incompetent, or if a claim is for wrongful death, any period pro-
34 vided by a contract for giving notice of the claim is tolled until the earlier
35 of—

36 “(1) the date a legal representative is appointed for the minor, in-
37 competent, or decedent's estate; or

38 “(2) 3 years after the injury or death.

39 **“§ 30509. Provisions limiting liability for personal injury or**
40 **death**

41 “(a) PROHIBITION.—

1 the vessels and the dates of shipment, and when so noted, that document
2 is deemed to be a 'shipped' bill of lading.

3 **"§ 30708. Shipper's guarantee of statements**

4 "The shipper is deemed to have guaranteed to the carrier the accuracy
5 at the time of shipment of the marks, number, quantity, and weight pro-
6 vided by the shipper. The shipper shall indemnify the carrier against loss,
7 damages, and expenses arising from inaccuracies in the information. How-
8 ever, the carrier's right to indemnity from the shipper does not limit the
9 carrier's liability under the contract of carriage to other persons.

10 **"§ 30709. Limitation on liability when shipper fails to de-**
11 **clare nature and value of goods**

12 "(a) IN GENERAL.—If the nature and value of the goods are not declared
13 by the shipper before shipment and ~~included~~ in the bill of lading, the carrier
14 and the vessel are not liable for loss or damage in an amount greater than
15 \$500 (United States currency or an equivalent amount in other currency)
16 for each package or, if the goods are not shipped in packages, for each cus-
17 tomary freight unit. A declaration of the nature and value of the goods in
18 a bill of lading is prima facie evidence of the nature and value.

19 "(b) HIGHER LIMIT.—A shipper and a carrier may agree on a higher
20 limit of liability than provided in subsection (a). However, the carrier is not
21 liable for more than the amount of damage actually sustained.

22 "(c) FRAUD.—If the shipper fraudulently misstates the nature or value
23 of the goods in the bill of lading, the carrier and the vessel are not liable
24 for loss or damage.

25 **"§ 30710. Weight of bulk cargo**

26 "If under the custom of a trade the weight of bulk cargo included in a
27 bill of lading is a weight ascertained or accepted by a third party (other
28 than the carrier and the shipper), and the bill of lading states that the
29 weight was ascertained or accepted by a third party, then notwithstanding
30 any other provision of this chapter—

31 "(1) the shipper is not deemed to have guaranteed to the carrier the
32 accuracy of the weight; and

33 "(2) the bill of lading is not prima facie evidence against the carrier
34 of receipt of goods of the weight stated in the bill of lading.

35 **"§ 30711. Defenses of carrier and vessel**

36 "(a) DUE DILIGENCE.—If a carrier has used due diligence as required
37 by section 30705(a) of this title, the carrier and the vessel are not liable
38 for loss or damage caused by unseaworthiness. The burden of proving due
39 diligence is on the carrier or other person claiming exemption from liability
40 under this subsection.

41 "(b) OTHER DEFENSES.—

1 of destination, without liability. The shipper is liable for all damages and
2 expenses arising out of the shipment.

3 "(b) SHIPPED WITH KNOWLEDGE AND CONSENT.—If goods described in
4 subsection (a) are shipped with knowledge and consent of the carrier, mas-
5 ter, or agent, and the goods become a danger to the vessel or other cargo
6 on the vessel, the carrier may take any action described in subsection (a)
7 without liability except for general average, if any.

8 **"§ 30713. Liability of shipper**

9 "A shipper is not liable for loss or damage sustained by a carrier or vessel
10 arising from any cause without the act or fault of the shipper or shipper's
11 agent.

12 **"§ 30714. Loss or damage**

13 "(a) INSPECTION.—If loss or damage is suspected, the carrier and the
14 person receiving the goods shall give all reasonable facilities to each other
15 to inspect and tally the goods.

16 "(b) NOTICE.—If loss or damage has occurred, the person entitled to de-
17 livery of the goods shall give written notice of the general nature of the loss
18 or damage to the carrier or the carrier's agent. If the loss or damage is
19 apparent, the notice shall be given at the port of discharge before or at the
20 time of ~~taking custody~~ of the goods. If the loss or damage is not apparent,
21 the notice shall be given within 3 days after ~~taking custody~~. Notice of the
22 loss or damage may be written on the receipt by the person taking ~~custody~~.
23 However, notice is not required if a joint inspection of the goods is made
24 at or before the time of ~~taking custody~~.

delivery

25 "(c) EFFECT OF FAILURE TO GIVE NOTICE.—Failure to give notice
26 under this section is prima facie evidence of delivery of the goods as de-
27 scribed in the bill of lading. However, failure to give notice does not affect
28 the shipper's right to bring a civil action for the loss or damage.

29 "(d) TIME LIMIT ON BRINGING ACTION.—A civil action under this chap-
30 ter for loss or damage must be brought within one year after the goods are
31 delivered or should have been delivered.

32 **"§ 30715. Special agreement about particular goods**

33 "(a) APPLICATION.—This section applies only to shipments for which the
34 character or condition of the goods or the circumstances or terms of the
35 carriage reasonably justify a special agreement, and not to ordinary com-
36 mercial shipments made in the ordinary course of trade.

37 "(b) AGREEMENT.—A shipper and a carrier may make a special agree-
38 ment about the carrier's duties and liabilities applicable to the carriage of
39 particular goods, including, to the extent not contrary to public policy, the
40 duty about seaworthiness.

1 “(b) NON-JURY.—A claim against the Government or a federally-owned
2 corporation under this section shall be tried without a jury.

3 **“§ 30904. Exclusive remedy**

4 “If a remedy is provided by this chapter, ~~an~~ action arising out of the
5 same subject matter ~~may not be brought under any other law~~ against ~~an~~ ^(the)
6 officer, employee, or agent of the United States Government or a federally-
7 owned corporation whose act or omission gave rise to the claim. ^(the)

8 **“§ 30905. Period for bringing action**

9 “A civil action under this chapter must be brought within 2 years after
10 the cause of action arose.

11 **“§ 30906. Venue**

12 “(a) IN GENERAL.—A civil action under this chapter shall be brought in
13 the district court of the United States for the district in which—

14 “(1) any plaintiff resides or has its principal place of business; or

15 “(2) the vessel or cargo is found.

16 “(b) TRANSFER.—On a motion by a party, the court may transfer the
17 action to any other district court of the United States.

18 **“§ 30907. Security**

19 “Neither the United States Government nor a federally-owned corporation
20 may be required to give a bond or admiralty stipulation in a civil action
21 under this chapter.

22 **“§ 30908. Procedure for hearing and determination**

23 “(a) IN GENERAL.—A civil action under this chapter shall proceed and
24 be heard and determined according to the principles of law and the rules
25 of practice applicable in like cases between private parties.

26 “(b) IN REM.—

27 “(1) REQUIREMENTS.—The action may proceed according to the
28 principles of an action in rem if—

29 “(A) the plaintiff elects in the complaint; and

30 “(B) it appears that an action in rem could have been main-
31 tained had the vessel or cargo been privately owned and possessed.

32 “(2) EFFECT ON RELIEF IN PERSONAM.—An election under para-
33 graph (1) does not prevent the plaintiff from seeking relief in personam
34 in the same action.

35 **“§ 30909. Exoneration and limitation**

36 ~~“In a civil action under this chapter,~~ The United States Government is
37 entitled to the exemptions from and limitations of liability provided by law
38 to an owner, charterer, operator, or agent of a vessel.

39 **“§ 30910. Costs and interest**

40 “(a) IN GENERAL.—A judgment against the United States Government
41 or a federally-owned corporation under this chapter may include costs and

sonam, or claim a setoff, against the Government for damages arising out of the same subject matter.

“§ 31103. Applicable procedure

“A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

“§ 31104. Venue

“(a) IN GENERAL.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

“(b) VESSEL OR CARGO OUTSIDE TERRITORIAL WATERS.—If the vessel or cargo is outside the territorial waters of the United States—

“(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

“(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

“§ 31105. Security when counterclaim filed

“If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

“§ 31106. Exoneration and limitation

~~“In a civil action under this chapter,~~ The United States Government is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

“§ 31107. Interest

“A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

“§ 31108. Arbitration, compromise, or settlement

“The Attorney General may arbitrate, compromise, or settle a claim authorized by this chapter if the claim actually has been filed.

“§ 31109. Payment of judgment or settlement

“The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

1 **"§ 31110. Subpoenas to officers or members of crew**

2 "An officer or member of the crew of a public vessel may not be subpoe-
3 naed in a civil action under this chapter without the consent of—

4 "(1) the Secretary of the department or the head of the independent
5 establishment having control of the vessel at the time the cause of ac-
6 tion arose; or

7 "(2) the master or commanding officer of the vessel at the time the
8 subpoena is issued.

9 **"§ 31111. Claims by nationals of foreign countries**

10 "A national of a foreign country may not maintain a civil action under
11 this chapter unless it appears to the satisfaction of the court in which the
12 action is brought that the government of that country, in similar cir-
13 cumstances, allows nationals of the United States to sue in its courts.

14 **"§ 31112. Lien not recognized or created**

15 "This chapter ~~may~~ not be construed as recognizing ~~or~~ creating a lien
16 against a public vessel of the United States. *the existence of or as*

17 **"§ 31113. Reports**

18 "The Attorney General shall report to Congress at each session thereof
19 all claims settled under this chapter."

20 **SEC. 6. SUBTITLE IV OF TITLE 46.**

21 Title 46, United States Code, is amended by inserting after subtitle III
22 the following:

23 **"Subtitle IV—Regulation of Ocean Shipping**

24 **"PART A—OCEAN SHIPPING**

| Chapter | Sec. |
|--|-------|
| "401. General | 40101 |
| "403. Agreements | 40301 |
| "405. Tariffs, Service Contracts, Refunds, and Waivers | 40501 |
| "407. Controlled Carriers | 40701 |
| "409. Ocean Transportation Intermediaries | 40901 |
| "411. Prohibitions and Penalties | 41101 |
| "413. Enforcement | 41301 |

25 **"PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES**

| | |
|---|-------|
| "421. Regulations Affecting Shipping in Foreign Trade | 42101 |
| "423. Foreign Shipping Practices | 42301 |

26 **"PART C—MISCELLANEOUS**

| | |
|---|-------|
| "441. Evidence of Financial Responsibility for Passenger Trans- portation. | 44101 |
|---|-------|

27 **"PART A—OCEAN SHIPPING**

28 **"CHAPTER 401—GENERAL**

| Sec. |
|--|
| "40101. Purposes. |
| "40102. Definitions. |
| "40103. Administrative exemptions. |
| "40104. Reports filed with the Commission. |

1 "(A) a majority of the interest in the carrier is owned or con-
2 trolled in any manner by that government, an agency of that gov-
3 ernment, or a public or private person controlled by that govern-
4 ment; or

5 "(B) that government has the right to appoint or disapprove the
6 appointment of a majority of the directors, the chief operating of-
7 ficer, or the chief executive officer of the carrier.

8 "(9) DEFERRED REBATE.—The term 'deferred rebate' means a re-
9 turn by a common carrier of any freight money to a shipper, where
10 the return is—

11 "(A) consideration for the shipper giving any portion of its ship-
12 ments to that or any other common carrier over a fixed period of
13 time;

14 "(B) deferred beyond the completion of the service for which it
15 was paid; and

16 "(C) made only if the shipper has agreed to make a further
17 shipment with that or any other common carrier.

18 "(10) FOREST PRODUCTS.—The term 'forest products' includes lum-
19 ber in bundles, rough timber, ties, poles, piling, laminated beams, bun-
20 dled siding, bundled plywood, bundled core stock or veneers, bundled
21 particle or fiber boards, bundled hardwood, wood pulp in rolls, wood
22 pulp in unitized bales, and paper and paper board in rolls or in pallet
23 or skid-sized sheets.

24 "(11) INLAND DIVISION.—The term 'inland division' means the
25 amount paid by a common carrier to an inland carrier for the inland
26 portion of through transportation offered to the public by the common
27 carrier.

28 "(12) INLAND PORTION.—The term 'inland portion' means the
29 charge to the public by a common carrier for the non-ocean portion of
30 through transportation.

31 "(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a
32 contract with an ocean common carrier or agreement providing for—

33 "(A) a shipper to obtain lower rates by committing all or a fixed
34 portion of its cargo to that carrier or agreement; and

35 "(B) a deferred rebate arrangement.

36 "(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal
37 operator' means a person engaged in the United States in the business
38 of providing wharfage, dock, warehouse, or other terminal facilities in
39 connection with a common carrier, or in connection with a common car-
40 rier and a water carrier subject to subchapter II of chapter 135 of title
41 49.

all or

the vessel for the carriage of cargo reserved by law for United States-flag vessels.

(2) CHARTERER DESCRIBED.—A charterer or subcharterer referred to in paragraph (1) is one that is not—

“(A) the owner of a United States-flag liner vessel eligible to be included in the Maritime Security Fleet Program and enrolled in an Emergency Preparedness Program under chapter 531 of this title; or

“(B) the operator or bareboat charterer of such a vessel for a period of at least one year.

“§ 40304. Commission action

“(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.

“(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

“(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

“(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

“(2) if additional information or documents are requested under subsection (d)—

“(A) on the 45th day after the Commission receives all the additional information and documents; or

“(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

“(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

“(e) MODIFICATION OF REVIEW PERIOD.—

“(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but

(2) Carrier Described.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of United States-flag liner vessels that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

**"CHAPTER 405—TARIFFS, SERVICE CONTRACTS,
REFUNDS, AND WAIVERS**

"Sec.

"40501. General rate and tariff requirements.

"40502. Service contracts.

"40503. Refunds and waivers.

"§ 40501. General rate and tariff requirements

"(a) AUTOMATED TARIFF SYSTEM.—

"(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(b) CONTENTS OF TARIFFS.—A tariff under subsection (a) shall—

"(1) state the places between which cargo will be carried;

"(2) list each classification of cargo in use;

"(3) state the level of compensation ^{if any,} of any ocean freight forwarder by a carrier or conference;

"(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

"(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

"(6) include copies of any loyalty contract, omitting the shipper's name.

"(c) ELECTRONIC ACCESS.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

"(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

"(e) EFFECTIVE DATES.—

"(1) INCREASES.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective

1 under a collective bargaining agreement shall be resolved solely in ac-
2 cordance with the dispute resolution procedures contained in the collec-
3 tive bargaining agreement and the National Labor Relations Act (15
4 U.S.C. 151 et seq.), and without reference to this subsection.

(29)

5 “(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect
6 the lawfulness or unlawfulness under this part or any other Federal or
7 State law of any collective bargaining agreement or element thereof, in-
8 cluding any element that constitutes an essential term of a service con-
9 tract.

10 “(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the ex-
11 clusive remedy for a breach of a service contract is an action in an appro-
12 priate court. The contract dispute resolution forum may not be controlled
13 by or in any way affiliated with a controlled carrier or by the government
14 that owns or controls the carrier.

15 **“§ 40503. Refunds and waivers**

16 “The Federal Maritime Commission, on application of a carrier or ship-
17 per, may permit a common carrier or conference to refund a portion of the
18 freight charges collected from a shipper, or to waive collection of a portion
19 of the charges from a shipper, if—

20 “(1) there is an error in a tariff, a failure to publish a new tariff,
21 or an error in quoting a tariff, and the refund or waiver will not result
22 in discrimination among shippers, ports, or carriers;

23 “(2) the common carrier or conference, before filing an application
24 for authority to refund or waive any charges for an error in a tariff
25 or a failure to publish a tariff, has published a new tariff setting forth
26 the rate on which the refund or waiver would be based; and

27 “(3) the application for the refund or waiver is filed with the Com-
28 mission within 180 days from the date of shipment.

29 **“CHAPTER 407—CONTROLLED CARRIERS**

- “Sec.
- “40701. Rates.
- “40702. Rate standards.
- “40703. Effective date of rates.
- “40704. Commission review.
- “40705. Presidential review of Commission orders.
- “40706. Exceptions.

30 **“§ 40701. Rates**

31 “(a) IN GENERAL.—A controlled carrier may not—

32 “(1) maintain a rate or charge in a tariff or service contract, or
33 charge or assess a rate, that is below a just and reasonable level; or

34 “(2) establish, maintain, or enforce in a tariff or service contract a
35 classification, rule, or regulation that results, or is likely to result, in
36 the carriage or handling of cargo at a rate or charge that is below a
37 just and reasonable level.

1 “(1) engaged, booked, secured, reserved, or contracted directly with
2 the carrier or its agent for space aboard a vessel or confirmed the
3 availability of the space; and

4 “(2) prepared and processed the ocean bill of lading, dock receipt,
5 or other similar document for the shipment.

6 “(b) DUAL COMPENSATION.—A common carrier may not pay compensa-
7 tion for services described in subsection (a) more than once on the same
8 shipment.

9 “(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean ^{freight forwarder} ~~transportation inter-~~
10 ~~mediary~~ may not receive compensation from a common carrier for a ship-
11 ment in which the ~~intermediary~~ has a direct or indirect beneficial interest.

12 A common carrier may not knowingly pay compensation on that shipment.

13 “(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference
14 or group of two or more ocean common carriers in the foreign commerce
15 of the United States that is authorized to agree on the level of compensation
16 paid to an ocean freight forwarder may not—

17 “(1) deny a member of the conference or group the right, upon no-
18 tice of not more than 5 days, to take independent action on any level
19 of compensation paid to an ocean freight forwarder; or

20 “(2) agree to limit the payment of compensation to an ocean freight
21 forwarder to less than 1.25 percent of the aggregate of all rates and
22 charges applicable under a tariff and assessed against the cargo on
23 which the services of the ocean freight forwarder are provided.

24 “CHAPTER 411—PROHIBITIONS AND PENALTIES

“Sec.

“41101. Joint ventures and consortiums.

“41102. General prohibitions.

“41103. Disclosure of information.

“41104. Common carriers.

“41105. Concerted action.

“41106. Marine terminal operators.

“41107. Monetary penalties.

“41108. Additional penalties.

“41109. Assessment of penalties.

25 “§ 41101. Joint ventures and consortiums

26 “In this chapter, a joint venture or consortium of two or more common
27 carriers operating as a single entity is deemed to be a single common car-
28 rier.

29 “§ 41102. General prohibitions

30 “(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE
31 RATES.—A person may not knowingly and willfully, directly or indirectly,
32 by means of false billing, false classification, false weighing, false report of
33 weight, false measurement, or any other unjust or unfair device or means,
34 obtain or attempt to obtain ocean transportation for property at less than
35 the rates or charges that would otherwise apply.

Ocean freight
forwarder

1 “(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the
2 Commission has made an award of reparation by a single order may be
3 joined as plaintiffs, and all other parties in the order may be joined as de-
4 fendants, in a single action in a judicial district in which any one plaintiff
5 could maintain an action against any one defendant. Service of process
6 against a defendant not found in that district may be made in a district
7 in which any office of that defendant is located or in which any port of call
8 on a regular route operated by that defendant is located. Judgment may
9 be entered for any plaintiff against the defendant liable to that plaintiff.

10 “(c) NATURE OF REVIEW.—In an action under this section, the findings
11 and order of the Commission are prima facie evidence of the facts stated
12 in the findings and order.

13 “(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs
14 of the action or for costs of any subsequent stage of the proceedings unless
15 they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed
16 reasonable attorney fees to be assessed and collected as part of the costs
17 of the action.

18 “(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section
19 to enforce an order of the Commission must be brought within 3 years after
20 the date the order was violated.

21 “PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES
22 “CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN
23 FOREIGN TRADE

“Sec.

“42101. Regulations of the Commission.

“42102. Regulations of other agencies.

“42103. No preference to Government-owned vessels.

“42104. Information, witnesses, and evidence.

“42105. Disclosure to public.

“42106. Other actions to remedy unfavorable conditions.

“42107. Refusal of clearance and entry.

“42108. Penalty for operating under suspended tariff or service contract.

“42109. Consultation with other agencies.

24 “§ 42101. Regulations of the Commission

25 “(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy
26 set forth in section 50101 of this title, the Federal Maritime Commission
27 shall prescribe regulations affecting shipping in foreign trade, not in conflict
28 with law, to adjust or meet general or special conditions unfavorable to ship-
29 ping in foreign trade, whether in a particular trade or on a particular route
30 or in commerce generally, including intermodal movements, terminal oper-
31 ations, cargo solicitation, agency services, ocean transportation intermediary
32 services and operations, and other activities and services integral to trans-
33 portation systems, and which arise out of or result from laws or regulations
34 of a foreign country or competitive methods, pricing practices, or practices

other

1 “(2) at least 75 percent of the voting power in the corporation is
2 vested in citizens of the United States;

3 “(3) there is no contract or understanding by which more than 25
4 percent of the voting power in the corporation may be exercised, di-
5 rectly or indirectly, in behalf of a person not a citizen of the United
6 States; and

7 “(4) there is no other means by which control of more than 25 per-
8 cent of ~~an~~ interest in the corporation is given to or permitted to be
9 exercised by a person not a citizen of the United States.

10 **“§ 50502. Applicability to receivers, trustees, successors, and**
11 **assigns**

12 “This subtitle applies to receivers, trustees, successors, and assigns of any
13 person to whom this subtitle applies.

14 **“§ 50503. Oceanographic research vessels**

15 “An oceanographic research vessel (as defined in section 2101 of this
16 title) is deemed not to be engaged in trade or commerce.

17 **“§ 50504. Sailing school vessels**

18 “(a) DEFINITIONS.—In this section, the terms ‘sailing school instructor’,
19 ‘sailing school student’, and ‘sailing school vessel’ have the meaning given
20 those terms in section 2101 of this title.

21 “(b) NOT SEAMEN.—A sailing school student or sailing school instructor
22 is deemed not to be a seaman under—

23 “(1) parts B, F, and G of subtitle II of this title; or

24 “(2) the maritime law doctrines of maintenance and cure or war-
25 ranty of seaworthiness.

26 “(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—
27 A sailing school vessel is deemed not to be—

28 “(1) a merchant vessel under section 11101(a)–(c) of this title; or

29 “(2) a vessel engaged in trade or commerce.

30 “(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or
31 charterer of a sailing school vessel shall maintain evidence of financial re-
32 sponsibility to meet liability for death or injury to sailing school students
33 and sailing school instructors on a voyage on the vessel. The amount of fi-
34 nancial responsibility shall be at least \$50,000 for each student and instruc-
35 tor. Financial responsibility under this subsection may be evidenced by in-
36 surance or other adequate financial resources.

37 **“PART B—MERCHANT MARINE SERVICE**

38 **“CHAPTER 511—GENERAL**

“Sec.

“51101. Policy.

“51102. Definitions.

“51103. General authority of Secretary of Transportation.

“51104. General authority of Secretary of the Navy.

“§ 51305. Prohibited basis for appointment

“Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual’s immediate family are alumni of the Academy.

“§ 51306. Cadet commitment agreements

“(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

“(1) complete the course of instruction at the Academy;

“(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

“(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

“(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

“(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

“(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

“(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subclause (A) is not available to the individual;

“(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

“(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

“(6) report to the Secretary on compliance with ~~clauses (1)–(5)~~.

Same chs on
p. 117 }

1 **"§ 51310. Deferment of service obligation under cadet com-**
 2 **mitment agreements**

3 "The Secretary of Transportation may defer the service commitment of
 4 an individual under section 51306(a)(5) of this title (as specified in the
 5 cadet commitment agreement) for not more than 2 years if the individual
 6 is engaged in a graduate course of study approved by the Secretary. How-
 7 ever, deferment of service as a commissioned officer ~~on active duty~~ must be
 8 approved by the Secretary of the ~~armed~~ military department ~~(of)~~ the Sec-
 9 retary of Commerce for service with the National Oceanic and Atmospheric
 10 Administration.

Under section
51306(a)(5)

that has jurisdiction
over the service
or by

11 **"§ 51311. Midshipman status in the Naval Reserve**

12 "(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at
 13 the United States Merchant Marine Academy, a citizen of the United States
 14 must agree to apply for midshipman status in the Naval Reserve (including
 15 the Merchant Marine Reserve, Naval Reserve).

16 "(b) APPOINTMENT.—

17 "(1) IN GENERAL.—A citizen of the United States appointed as a
 18 cadet at the Academy shall be appointed by the Secretary of the Navy
 19 as a midshipman in the Naval Reserve (including the Merchant Marine
 20 Reserve, Naval Reserve).

21 "(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall
 22 provide for cadets of the Academy who are midshipmen in the United
 23 States Naval Reserve to be—

24 "(A) issued an identification card (referred to as a 'military ID
 25 card'); and

26 "(B) entitled to all rights and privileges in accordance with the
 27 same eligibility criteria as apply to other members of the Ready
 28 Reserve of the reserve components of the armed forces.

29 "(3) COORDINATION.—The Secretary of the Navy shall carry out
 30 paragraphs (1) and (2) in coordination with the Secretary of Transpor-
 31 tation.

32 **"§ 51312. Board of Visitors**

33 "(a) IN GENERAL.—The United States Merchant Marine Academy has
 34 a Board of Visitors that shall visit the Academy annually on a date named
 35 by the Secretary of Transportation and make recommendations to the Sec-
 36 retary on the operation of the Academy. The Board has a term of 2 years
 37 commencing at the beginning of each Congress.

38 "(b) APPOINTMENT.—

39 "(1) IN GENERAL.—The Board is composed of—

40 "(A) 2 Senators appointed by the chairman of the Committee
 41 on Commerce, Science, and Transportation of the Senate;

A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of Transportation and to make recommendations on the operation of the Academy.

51312(a)

shall be

1 “(B) 3 Members of the House of Representatives appointed by
2 the chairman of the Committee on ~~Transportation and Infrastruc-~~
3 ~~ture~~ of the House of Representatives;

4 “(C) 1 Senator appointed by the Vice President;

5 “(D) 2 Members of the House of Representatives appointed by
6 the Speaker of the House of Representatives; and

7 “(E) the chairmen of the Committee on Commerce, Science, and
8 Transportation of the Senate and the Committee on ~~Transporta-~~
9 ~~tion and Infrastructure~~ of the House of Representatives, as ex
10 officio members.

11 “(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the
12 Board is unable to visit the Academy as provided in subsection (a), an-
13 other individual may be appointed as a substitute in the manner pro-
14 vided in paragraph (1).

15 “(c) STAFF.—The chairmen of the Committee on Commerce, Science, and
16 Transportation of the Senate and the Committee on ~~Transportation and In-~~
17 ~~frastructure~~ of the House of Representatives may designate staff members
18 of their committees to serve without reimbursement as staff for the Board.

19 “(d) TRAVEL EXPENSES.—When serving away from home or regular
20 place of business, a member of the Board or a staff member designated
21 under subsection (c) shall be allowed travel expenses, including per diem in
22 lieu of subsistence, as authorized by section 5703 of title 5.

23 “§ 51313. Advisory Board

24 “(a) IN GENERAL.—The United States Merchant Marine Academy has
25 an Advisory Board that shall visit the Academy at least once during each
26 academic year to examine the course of instruction and management of the
27 Academy and to advise the Maritime Administrator and the Superintendent
28 of the Academy.

29 “(b) APPOINTMENT AND TERMS.—The Board ^{shall be} is composed of not more
30 than 7 individuals appointed by the Secretary of Transportation. The indi-
31 viduals must be distinguished in education and other fields related to the
32 Academy. Members of the Board ^{shall be} are appointed for terms of not more than
33 3 years and may be reappointed. The Secretary shall designate one of the
34 members as chairman.

35 “(c) TRAVEL EXPENSES.—When serving away from home or regular
36 place of business, a member of the Board shall be allowed travel expenses,
37 including per diem in lieu of subsistence, as authorized by section 5703 of
38 title 5.

39 “(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee
40 Act (5 App. U.S.C.) does not apply to the Board.

An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

Armed Services

endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subclause (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subclauses (A)–(C); and

"(6) report to the Secretary on compliance with ~~clauses (1)–(5)~~.

"(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments,

this subsection

↑
Same chg
on p. 108

income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

“(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

“(2) the deposited gain is withdrawn before the end of that period;

“(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

“(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

“§ 53312. Assessment and collection of deficiency tax

“A deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

*Notwithstanding
any other provision
of law, a*

“CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

“Sec.

“53501. Definitions.

“53502. Regulations.

“53503. Establishing a capital construction fund.

“53504. Deposits and withdrawals.

“53505. Ceiling on deposits.

“53506. Investment and fiduciary requirements.

“53507. Nontaxation of deposits.

“53508. Separate accounts within a fund.

“53509. Qualified withdrawals.

“53510. Tax treatment of qualified withdrawals and basis of property.

“53511. Tax treatment of nonqualified withdrawals.

“53512. FIFO and LIFO withdrawals.

“53513. Corporate reorganizations and partnership changes.

“53514. Relationship of old fund to new fund.

“53515. Records and reports.

“53516. Termination of agreement after change in regulations.

“53517. Reports.

“§ 53501. Definitions

“In this chapter:

“(1) AGREEMENT VESSEL.—The term ‘agreement vessel’ means—

“(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

“(B) a barge or container that is part of the complement of a vessel described in subclause (A) if provided for in the agreement.

unless the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121.

1 **"§ 55103. Transportation of passengers**

2 **"(a) IN GENERAL.**—Except as otherwise provided in this chapter or chap-
3 ter 121 of this title, a ~~foreign~~ vessel may not transport passengers between
4 ports or places in the United States, either directly or via a foreign port.

5 **"(b) PENALTY.**—The penalty for violating subsection (a) is \$200 for each
6 passenger transported and landed.

300

7 **"§ 55104. Transportation of passengers between Puerto Rico**
8 **and other ports in the United States**

9 **"(a) DEFINITIONS.**—In this section:

10 **"(1) CERTIFICATE.**—The term 'certificate' means a certificate of fi-
11 nancial responsibility for indemnification of passengers for nonperform-
12 ance of transportation issued by the Federal Maritime Commission
13 under section 44102 of this title.

14 **"(2) PASSENGER VESSEL.**—The term 'passenger vessel' means a ves-
15 sel of similar size, or offering similar service, as any other vessel trans-
16 porting passengers under subsection (b).

17 **"(b) EXEMPTION.**—Except as otherwise provided in this section, a vessel
18 not qualified to engage in the coastwise trade may transport passengers be-
19 tween a port in Puerto Rico and another port in the United States.

20 **"(c) EXPIRATION OF EXEMPTION.**—

21 **"(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.**—On
22 a showing to the Secretary of the department in which the Coast Guard
23 is operating, by the vessel owner or charterer, that a United States
24 passenger vessel qualified to engage in the coastwise trade is offering
25 or advertising passenger service between a port in Puerto Rico and an-
26 other port in the United States pursuant to a certificate, the Secretary
27 shall notify the owner or operator of each vessel transporting pas-
28 sengers under subsection (b) to terminate that transportation within
29 270 days after the Secretary's notification. Except as provided in sub-
30 section (d), the authority to transport passengers under subsection (b)
31 expires at the end of that 270-day period.

32 **"(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERV-**
33 **ICE.**—On a showing to the Secretary, by the vessel owner or charterer,
34 that a United States passenger vessel not qualified to engage in the
35 coastwise trade is offering or advertising passenger service between a
36 port in Puerto Rico and another port in the United States pursuant
37 to a certificate, the Secretary shall notify the owner or operator of each
38 foreign vessel transporting passengers under subsection (b) to termi-
39 nate that transportation within 270 days after the Secretary's notifica-
40 tion. Except as provided in subsection (d), the authority of a foreign

1 vessel to transport passengers under subsection (b) expires at the end
2 of that 270-day period.

3 “(d) DELAYING EXPIRATION.—If the vessel offering or advertising the
4 service described in subsection (c) has not begun that service within 270
5 days after the Secretary’s notification, the expiration provided by subsection
6 (c) is delayed until 90 days after the vessel offering or advertising the serv-
7 ice begins that service.

8 “(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the
9 service on which an expiration was based is no longer available, the expired
10 authority to transport passengers is reinstated.

11 **“§ 55105. Transportation of hazardous waste**

12 “(a) IN GENERAL.—The transportation of hazardous waste, as defined in
13 section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42
14 U.S.C. 6903(5)), from a point in the United States to sea for incineration
15 is deemed to be transportation of merchandise under section 55102 of this
16 title.

17 “(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

18 “(1) IN GENERAL.—Subsection (a) does not apply to transportation
19 performed by a foreign-flag ocean incineration vessel owned by or
20 under construction on May 1, 1982, for a corporation wholly owned by
21 citizens of the United States under section 50501(a)–(c) of this title.

22 “(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration
23 equipment on a vessel described in paragraph (1) must meet standards
24 of the Coast Guard and the Environmental Protection Agency.

25 “(3) INSPECTION.—A vessel described in paragraph (1) shall be in-
26 spected by the Coast Guard, regardless of whether inspected by the flag
27 nation. The inspection shall be the same as would be required of a ves-
28 sel of the United States, including drydock inspection and internal ex-
29 amination of tanks and void spaces. The inspection may be made con-

flag nation

30 currently with an inspection by the ~~country of documentation~~ or within
31 one year after the initial issuance or next scheduled issuance of the
32 Safety of Life at Sea Safety Construction Certificate. In making the
33 inspection, the Coast Guard shall refer to the condition of the hull and
34 superstructure established by the initial foreign certification as the
35 basis for evaluating the current condition of the hull and super-
36 structure. The Coast Guard shall allow the substitution of fittings, ma-
37 terial, apparatus, equipment, and appliances different from those re-
38 quired for vessels of the United States if satisfied they are equivalent
39 and at least as effective as those required for vessels of the United
40 States. A satisfactory inspection under this paragraph shall be certified

1 in writing by the Secretary of the department in which the Coast
2 Guard is operating.

3 "(c) EFFECTIVE DATE.—~~This section~~ is not effective until an appropriate
4 vessel has been built and documented under chapter 121 of this title.

5 **"§ 55106. Merchandise transferred between barges**

6 "(a) IN GENERAL.—On terms and conditions the Secretary of Homeland
7 Security may prescribe by regulation, the Secretary may suspend the appli-
8 cation of section 55102 of this title to the transportation of merchandise
9 that is transferred, when moving in the foreign trade of the United States,
10 from a barge certified by the owner or operator as designed specifically for
11 carriage on a vessel and carried regularly on a vessel in foreign trade, to
12 another such barge owned or leased by the same owner or operator. How-
13 ever, this subsection does not apply to transportation between the conti-
14 nental United States and noncontiguous States, territories, or possessions
15 to which the coastwise laws apply.

16 "(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section
17 applies to a foreign vessel only if the Secretary of Homeland Security finds,
18 based on information from the Secretary of State, that the government of
19 the country of documentation extends reciprocal privileges to vessels of the
20 United States.

21 **"§ 55107. Empty cargo containers and barges**

22 "(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and
23 conditions the Secretary of Homeland Security may prescribe by regulation,
24 section 55102 of this title does not apply to the transportation of—

25 "(1) empty cargo vans, empty lift vans, or empty shipping tanks;

26 "(2) equipment for use with cargo vans, lift vans, or shipping tanks;

27 "(3) empty barges specifically designed for carriage aboard a vessel
28 and equipment (except propulsion equipment) for use with those
29 barges;

30 "(4) empty instruments for international traffic exempted from the
31 customs laws under section 322(a) of the Tariff Act of 1930 (19
32 U.S.C. 1322(a)); or

33 "(5) stevedoring equipment and material.

34 "(b) CONDITIONS.—

35 "(1) CLAUSES (1)–(4).—Clauses (1)–(4) of subsection (a) apply only
36 if the items named are owned or leased by the owner or operator of
37 the vessel and transported for use in handling ~~the~~ cargo ~~of that owner~~
38 ~~or operator~~ in foreign trade.

39 "(2) CLAUSE (5).—Clause (5) of subsection (a) applies only if the
40 items named are—

Subsection (a)

vessel of foreign
registry

nation of
registry

its

“(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

“(B) transported without charge for use in the handling of cargo in foreign trade.

“(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a foreign vessel only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the country of documentation extends reciprocal privileges to vessels of the United States.

“§ 55108. Platform jackets

“(a) DEFINITION.—In this section, the term ‘platform jacket’ includes any type of offshore drilling or production structure or components, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure), hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as ‘topsides’) of a hydrocarbon development and production platform.

“(b) EXEMPTION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a launch barge between points in the United States, at one of which there is an installation or other device described by section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

“(1) the launch barge has a launch capacity of at least 12,000 long tons, was built not later than June 7, 1988, and is documented under chapter 121 of this title; and

“(2) the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is on the list published under subsection (c) and is available for the transportation.

“(c) LIST OF LAUNCH BARGES.—The Secretary of Transportation shall publish periodically in the Federal Register a current list of launch barges with a capacity of less than 12,000 long tons that are qualified to engage in the coastwise trade. For each launch barge, the Secretary shall include the name, launch capacity, length, beam, depth, and other distinguishing characteristics, and the name and address of the person to whom inquiries may be made.

“§ 55109. Dredging

“(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

“(1) the vessel—

1 “(A) has been issued a certificate of documentation with a
2 coastwise endorsement under chapter 121 of this title; or

3 “(B) is less than 5 net tons and is otherwise qualified to engage
4 in the coastwise trade; and

5 “(2) the owner and charterer, if any, are citizens of the United
6 States under section 50501 of this title for purposes of engaging in the
7 coastwise trade.

8 “(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a reg-
9 istry endorsement may engage in the dredging of gold in Alaska.

10 “(c) PENALTY.—If a vessel is operated in knowing violation of this sec-
11 tion, the vessel and its equipment are liable to seizure by and forfeiture to
12 the United States Government.

13 **“§ 55110. Transportation of dredged material**

14 “Section 55102 of this title applies to the transportation of valueless ma-
15 terial or dredged material, regardless of whether it has commercial value,
16 from a point in the United States or on the high seas within the exclusive
17 economic zone, to another point in the United States or on the high seas
18 within the exclusive economic zone.

19 **“§ 55111. Towing**

20 “(a) IN GENERAL.—A vessel may not do any part of any towing de-
21 scribed in subsection (b) unless the vessel has been issued a certificate of
22 documentation with a coastwise endorsement under chapter 121 of this title.
23 This prohibition does not apply to the towing of a vessel in distress.

24 “(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

25 “(1) a vessel between ports or places in the United States to which
26 the coastwise laws apply, either directly or via a foreign port or place;

27 “(2) a vessel from point to point within the harbors of ports or
28 places to which the coastwise laws apply; or

29 “(3) a vessel transporting valueless material or dredged material, re-
30 gardless of whether it has commercial value, from a point in the United
31 States or on the high seas within the exclusive economic zone, to an-
32 other point in the United States or on the high seas within the exclu-
33 sive economic zone.

34 “(c) PENALTIES.—

35 “(1) OWNER AND MASTER.—The owner and master of a vessel tow-
36 ing another vessel in violation of this section are each liable for a pen-
37 alty of at least ~~\$250~~ but not more than ~~\$1,000~~. A penalty under this
38 paragraph constitutes a lien on the vessel. The lien is enforceable in
39 a district court of the United States for any district in which the vessel
40 is found. Clearance may not be granted to the vessel until the penalties
41 have been paid.

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1 “(2) VESSEL.—In addition to the penalties under paragraph (1), the
2 towing vessel is liable for a penalty of \$50 per ton based on the ton-
3 nage of each towed vessel.

4 **“§ 55112. Vessel escort operations and towing assistance**

5 “(a) IN GENERAL.—Except in the case of a vessel in distress, only a ves-
6 sel of the United States may perform the following escort vessel operations
7 within the navigable waters of the United States:

8 “(1) Operations that commence or terminate at a port or place in
9 the United States.

10 “(2) Operations required by United States law or regulation.

11 “(3) Operations provided in whole or in part within or through navi-
12 gation facilities owned, maintained, or operated by the United States
13 Government or the approaches to those facilities, other than facilities
14 operated by the St. Lawrence Seaway Development Corporation on the
15 St. Lawrence River portion of the Seaway.

16 “(b) ESCORT VESSELS.—For purposes of this section, an escort vessel
17 is—

18 “(1) any vessel that is assigned and dedicated to assist another ves-
19 sel, whether or not tethered to that vessel, solely as a safety precaution
20 to assist in controlling the speed or course of the assisted vessel in the
21 event of a steering or propulsion equipment failure, or any other simi-
22 lar emergency circumstance, or in restricted waters where additional
23 assistance in maneuvering the vessel is required to ensure its safe oper-
24 ation; and

25 “(2) in the case of a vessel being towed under section 55111 of this
26 title, any vessel that is assigned and dedicated to the vessel being towed
27 in addition to any towing vessel required under that section.

28 “(c) RELATIONSHIP TO OTHER LAW.—This section does not affect sec-
29 tion 55111 of this title.

30 “(d) PENALTY.—A person violating this section is liable to the Govern-
31 ment for a civil penalty of not more than \$10,000 for each day during which
32 the violation occurs.

33 **“§ 55113. Use of foreign documented oil spill response ves-**
34 **sels**

35 “Notwithstanding any other provision of law, an oil spill response vessel
36 documented under the laws of a foreign country may operate in waters of
37 the United States on an emergency and temporary basis, for the purpose
38 of recovering, transporting, and unloading in a United States port oil dis-
39 charged as a result of an oil spill in or near those waters, if—

40 “(1) an adequate number and type of oil spill response vessels docu-
41 mented under the laws of the United States cannot be engaged to re-

“§ 55115. Supplies on fish processing vessels

“Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard ~~the~~ vessel.

“§ 55116. Canadian rail lines

“Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes have been recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

“§ 55117. Great Lakes rail route

“Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

“(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

“(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

“(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

“(4) the car ferry is built in and documented under the laws of the United States.

“§ 55118. Foreign railroads whose road enters by ferry, tugboat, or towboat

“A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

1 commodities allocated to the Great Lakes port range under paragraph
2 (2) may not be reallocated or diverted to another port range to meet
3 the requirements for United States-flag transportation under this sec-
4 tion and section 55305 of this title.

5 “(4) AWARDING CONTRACTS.—In awarding a contract for the trans-
6 portation by vessel of commodities from the Great Lakes port range
7 pursuant to an export activity referred to in subsection (b), an agen-
8 cy—

9 “(A) shall consider expressions of freight interest for any vessel
10 from a vessel operator who meets reasonable requirements for fi-
11 nancial and operational integrity; and

12 “(B) may not deny award of the contract to a person based on
13 the type of vessel on which the transportation would be provided
14 (including on the basis that the transportation would not be pro-
15 vided on a liner vessel, as that term is used in the Shipping Act
16 of 1984, as in effect on November 14, 1995), if the person other-
17 wise satisfies reasonable requirements for financial and operational
18 integrity.

19 “(5) NONAVAILABILITY OF VESSELS.—A determination of nonavail-
20 ability of United States-flag vessels resulting from the application of
21 this subsection may not reduce the gross tonnage of commodities re-
22 quired by this section and section 55305 of this title to be transported
23 on United States-flag vessels.

24 **“§ 55315. Minimum tonnage**

25 “(a) DEFINITION.—In this section, the term ‘base period’ means the 5-
26 year period running from the sixth through the second prior fiscal years.

27 “(b) REQUIREMENT.—For each fiscal year, the minimum quantity of ag-
28 ricultural commodities to be exported under programs subject to section
29 55314 of this title is the average of the tonnage exported under those pro-
30 grams during the base period, discarding the high and low years.

31 “(c) WAIVERS.—The President may waive the minimum quantity for a
32 fiscal year under this section if the President determines and reports to
33 Congress, together with reasons, that the quantity cannot be used effectively
34 for the purposes of those programs or, based on a certification by the Sec-
35 retary of Agriculture, that the commodities are not available for reasons
36 that include the unavailability of funds.

37 **“§ 55316. Financing the transportation of agricultural com-
38 modities**

39 “(a) ~~IN GENERAL~~.—The Secretary of Transportation shall finance any
40 increased ocean freight charges incurred in a fiscal year ~~because~~ of section
41 55314 of this title.

REIMBURSEMENT OF INCREASED CHARGES.

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"(b) ~~AMOUNT OF REIMBURSEMENT.~~—

"(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

"(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

"(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary of Agriculture and the Corporation during that fiscal year.

"(2) COMMODITIES SHIPPED FROM INVENTORY.—~~Under~~ this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(e) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(e)).

"(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

"(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

"(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

"(d) REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

"(e) APPROPRIATIONS.—

SOURCE OF FUNDS FOR

(3) SECRETARY.—The term 'Secretary' means the Secretary of the department in which the Coast Guard is operating.

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1 “(2) PASSENGER VESSEL.—The term ‘passenger vessel’ has the
2 meaning given that term in section 2101 of this title.

3 **“§ 70302. International measures for seaport and vessel se-**
4 **curity**

5 “Congress encourages the President to continue to seek agreement on
6 international seaport and vessel security through the International Maritime
7 Organization. In developing an agreement, each member country of the
8 International Maritime Organization should consult with appropriate private
9 sector interests in that country. The agreement would establish seaport and
10 vessel security measures and could include—

11 “(1) seaport screening of cargo and baggage similar to that done at
12 airports;

13 “(2) security measures to restrict access to cargo, vessels, and dock-
14 side property to authorized personnel only;

15 “(3) additional security on board vessels;

16 “(4) licensing or certification of compliance with appropriate security
17 standards; and

18 “(5) other appropriate measures to prevent unlawful acts against
19 passengers and crews on vessels.

20 **“§ 70303. Security standards at foreign ports**

21 “(a) DEFINITION.—In this section, except when referring to the Secretary
22 of State, the term ‘Secretary’ means the Secretary of the department in
23 which the Coast Guard is operating.

24 “(b) GENERAL REQUIREMENTS.—The Secretary shall develop and imple-
25 ment a plan to assess the effectiveness of the security measures maintained
26 at foreign ports that the Secretary, in consultation with the Secretary of
27 State, determines pose a high risk of acts of terrorism against passenger
28 vessels. In carrying out this subsection, the Secretary shall consult with the
29 Secretary of State about the terrorist threat that exists in each country and
30 poses a high risk of acts of terrorism against passenger vessels.

31 “(c) NOTICE AND RECOMMENDATIONS TO OTHER COUNTRIES.—If the
32 Secretary, after implementing the plan under subsection (b), determines
33 that a port does not maintain and administer effective security measures,
34 the Secretary of State (after being informed by the Secretary) shall—

35 “(1) notify the appropriate government authorities of the country in
36 which the port is located of the determination; and

37 “(2) recommend steps necessary to bring the security measures at
38 that port up to the standard used by the Secretary in making the as-
39 sessment under subsection (b).

40 “(d) ANTITERRORISM ASSISTANCE.—The President is encouraged to pro-
41 vide antiterrorism assistance related to maritime security under chapter 8

1 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.)
 2 to foreign countries, especially for a port that the Secretary determines
 3 under subsection (e) does not maintain and administer effective security
 4 measures.

5 **"§ 70304. Travel advisories on security at foreign ports**

6 "(a) GENERAL REQUIREMENTS.—On being notified by the Secretary of
 7 ~~Transportation~~ that the Secretary has determined that a condition exists
 8 that threatens the safety or security of passengers, passenger vessels, or
 9 crew traveling to or from a foreign port that the Secretary has determined
 10 under section 70303(d) of this title does not maintain and administer effec-
 11 tive security measures, the Secretary of State immediately shall issue a trav-
 12 el advisory for that port. The Secretary of State shall take the necessary
 13 steps to widely publicize the travel advisory.

14 "(b) LIFTING ADVISORIES.—A travel advisory issued under subsection (a)
 15 may be lifted only if the Secretary of ~~Transportation~~, in consultation with
 16 the Secretary of State, has determined that effective security measures are
 17 maintained and administered at the port.

18 "(c) NOTICE TO CONGRESS.—The Secretary of State shall notify Con-
 19 gress immediately of any change in the status of a travel advisory issued
 20 under this section.

21 **"§ 70305. Suspension of passenger services**

22 "(a) GENERAL AUTHORITY.—Whenever the President determines that a
 23 foreign nation permits the use of territory under its jurisdiction as a base
 24 of operations or training for, or as a sanctuary for, or in any way arms,
 25 aids, or abets, a terrorist or terrorist group that knowingly uses the illegal
 26 seizure of passenger vessels or the threat thereof as an instrument of policy,
 27 the President may suspend the right of any passenger vessel common car-
 28 rier to operate to or from, and the right of any passenger vessel of the
 29 United States to use, a port in that foreign nation for passenger service.
 30 The suspension may be without notice or hearing and for as long as the
 31 President determines is necessary to ensure the security of passenger vessels
 32 against unlawful seizure.

33 "(b) PROHIBITION.—A passenger vessel common carrier, or a passenger
 34 vessel of the United States, may not operate in violation of a suspension
 35 under this section.

36 "(c) PENALTIES.—

37 "(1) DENIAL OF ENTRY.—If a person operates a vessel in violation
 38 of this section, the Secretary of ~~the department in which the Coast~~
 39 ~~Guard is operating~~ may deny the vessels of that person entry to ports
 40 of the United States.

1 “(2) CIVIL PENALTY.—A person violating this section is liable to the
2 United States Government for a civil penalty of not more than
3 \$50,000. Each day a vessel uses a prohibited port is a separate viola-
4 tion.

5 **“§ 70306. Report on terrorist threats**

6 “(a) CONTENT.—Not later than February 28 of each year, the Secretary
7 ~~of Transportation~~ shall submit a report to Congress on the threat from acts
8 of terrorism to United States ports and vessels operating from those ports.
9 The Secretary shall include a description of activities undertaken under title
10 I of the Maritime Transportation Security Act of 2002 (Public Law 107-
11 295, 116 Stat. 2066) and an analysis of the effect of those activities on
12 port security against acts of terrorism.

13 “(b) SUBMISSION.—The report shall be submitted to the Committee on
14 International Relations and the Committee on Transportation and Infra-
15 structure of the House of Representatives and the Committee on Foreign
16 Relations and the Committee on Commerce, Science, and Transportation of
17 the Senate. Any classified information in the report shall be submitted sepa-
18 rately as an addendum.

19 **“CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT**

“Sec.

“70501. Findings and declarations.

“70502. Definitions.

“70503. Manufacture, distribution, or possession of controlled substances on vessels.

“70504. Jurisdiction and venue.

“70505. Failure to comply with international law as a defense.

“70506. Penalties.

“70507. Forfeitures.

20 **“§ 70501. Findings and declarations**

21 “Congress finds and declares that trafficking in controlled substances
22 aboard vessels is a serious international problem, is universally condemned,
23 and presents a specific threat to the security and societal well-being of the
24 United States.

25 **“§ 70502. Definitions**

26 “(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section
27 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970
28 (21 U.S.C. 802) apply to this chapter.

29 “(b) VESSEL OF THE UNITED STATES.—In this chapter, the term ‘vessel
30 of the United States’ means—

31 “(1) a vessel documented under chapter 121 of this title or num-
32 bered as provided in chapter 123 of this title;

33 “(2) a vessel owned in any part by an individual who is a citizen
34 of the United States, the United States Government, the government
35 of a State or political subdivision of a State, or a corporation incor-
36 porated under the laws of the United States or of a State, unless—

1 “(c) INSPECTION OF RECORDS.—A person delegated authority under this
2 section shall make available to the Secretary for inspection, on request,
3 records the person is required to keep.

4 “(d) PENALTIES AND ORDERS.—A person delegated authority under this
5 section may not—

6 “(1) assess or collect, or attempt to assess or collect, a penalty for
7 violation of the Convention, this chapter, or an order issued by the Sec-
8 retary under this chapter; or

9 “(2) issue or attempt to issue a detention or other order.

10 “(e) PUBLICATION.—The Secretary shall publish in the Federal Register
11 or other appropriate publication—

12 “(1) the name and address of each person to whom authority is dele-
13 gated;

14 “(2) the duties and powers delegated; and

15 “(3) the period of the delegation.

16 “(f) REVOCATION.—The Secretary may revoke a delegation of authority
17 under this section at any time.

18 **“§ 80507. Employee protection**

19 “(a) PROHIBITION.—A person may not discharge or discriminate against
20 an employee because the employee has reported the existence of an unsafe
21 container or a violation of this chapter or a regulation prescribed under this
22 chapter.

23 “(b) COMPLAINTS.—An employee alleging to ~~be the subject of a~~ violation
24 of subsection (a) may file a complaint with the Secretary of Labor. The
25 complaint must be filed within 60 days after the violation.

26 “(c) ENFORCEMENT.—The Secretary may investigate the complaint. If
27 the Secretary finds there has been a violation, the Secretary may bring a
28 civil action in a district court of the United States. The court has jurisdic-
29 tion to restrain violations of subsection (a) and order appropriate relief, in-
30 cluding reinstatement of the employee to the employee's former position
31 with back pay.

32 “(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a com-
33 plaint under this section, the Secretary shall notify the complainant of the
34 ~~Secretary's~~ intended action on the complaint.

35 **“§ 80508. Amendments to Convention**

36 “(a) PROPOSALS BY UNITED STATES GOVERNMENT.—The Secretary of
37 State, with the concurrence of the Secretary of the department in which the
38 Coast Guard is operating, may propose amendments to the Convention or
39 request a conference for amending the Convention as provided in article IX
40 of the Convention.

to have been
discharged or
discriminated
against in

of Labor

an appropriate

of Labor

(23) In section 8103(a), strike "only" and substitute "Except as otherwise provided in this title, only".

- 1 U.S.C. 91)" and substitute "Secretary of Homeland Security" and
- 2 "section 60105 of this title", respectively.
- 3 (19) In section 4702, strike the subsection "(a)" designation.
- 4 (20) In section 4705—
- 5 (A) strike "subcontractor not" and substitute "subcontractor
- 6 are not";
- 7 (B) strike "(a)(1)" and substitute "(a)";
- 8 (C) strike "(2) Paragraph (1)" and substitute "(b) Subsection
- 9 (a)";
- 10 (D) strike "(A)" and substitute "(1)"; and
- 11 (E) strike "(B)" and substitute "(2)".
- 12 (21) In section 5113(b), strike "section 4197 of the Revised Statutes
- 13 (46 App. U.S.C. 91)" and substitute "section 60105 of this title".
- 14 (22) In section 6101, redesignate the second subsection (g) and sub-
- 15 section (h) as subsections (h) and (i), respectively.
- 16 24 (23) In section 9307(b)(2)(A), strike "The" and substitute "the".
- 17 25 (24) In section 12503(a), in the matter before clause (1), strike
- 18 "delegee" and substitute "delegate".
- 19 26 (25) In section 13102(a), insert "(26 U.S.C. 9504)" after "Internal
- 20 Revenue Code of 1986".
- 21 27 (26) In section 14305(a)—
- 22 (A) in clause (1), strike "and sections 12106(c) and 12108(c)"
- 23 and substitute "of this subtitle and section 12116";
- 24 (B) in clause (5), strike "section 4283 of the Revised Statutes
- 25 of the United States (46 App. U.S.C. 183)" and substitute "sec-
- 26 tion 30506 of this title";
- 27 (C) in clause (6), strike "sections 27 and 27A of the Act of
- 28 June 5, 1920 (46 App. U.S.C. 883 and 883-1)" and substitute
- 29 "sections 12118 and 12132 of this title"; and
- 30 (D) in clause (7), strike "Act of July 14, 1956 (46 App. U.S.C.
- 31 883a)" and substitute "section 12139(b) of this title".
- 32 28 (27) In section 31306(a), strike "section 9 or 37 of the Shipping
- 33 Act, 1916 (46 App. U.S.C. 808, 835)" and substitute "section 56102
- 34 or 56103 of this title".
- 35 29 (28) In section 31308, strike "title XI of the Merchant Marine Act,
- 36 1936 (46 App. U.S.C. 1271 et seq.)" and substitute "chapter 537 of
- 37 this title".
- 38 30 (29) In section 31322—
- 39 (A) in subsection (a)(4)(A), strike "section 12102(c)" and sub-
- 40 stitute "section 12113(c)";

(B) in subsection (a)(4)(E), strike "under section 12102(a)" and substitute "for purposes of documentation under section 12103";

(C) in subsection (f)(2), strike "section 12102(c)" and substitute "section 12113(e)".

3) ~~(30)~~ In section 31325(b)(3)(B), strike "section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)" and substitute "section 56102 or 56103 of this title".

32 ~~(31)~~ In section 31326(b)—

(A) in clause (1), strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "chapter 537 of this title,"; and

(B) in clause (2), strike "title XI of that Act" and substitute "chapter 537 of this title".

33 ~~(32)~~ In section 31329—

(A) in subsection (a)(1), strike "section 12102" and substitute "section 12103"; and

(B) in subsection (b)—

(i) in clause (2), strike "section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)" and substitute "chapter 563 of this title"; and

(ii) in clause (3), strike "sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)" and substitute "sale to a person not a citizen of the United States under section 12132 of this title".

~~(33) In section 31342(b), strike "public vessel" and substitute "vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country"~~

SEC. 15. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike "The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "Chapter 705 of title 46"

(2) In section 2218(d)(2), strike "sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund" and substitute "sections 57101–57104 and chapter 573 of title 46".

(3) In section 2350b(g)(2), strike "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))" and substitute "section 55305 of title 46".

(1) In section 548, strike “the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.),” and substitute “part F of subtitle V of title 46”.

(2) In section 3134(b), strike “the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)” and substitute “subtitle V of title 46”.

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike “Secretary of the Treasury” and “section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)” and substitute “Secretary of Homeland Security” and “section 60105 of title 46”, respectively.

(2) In section 5901(3)(B), strike “section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)” and substitute “section 40102 of title 46”.

SEC. 16. LEGISLATIVE CONSTRUCTION AND TRANSITIONAL PROVISIONS.

(a) IN GENERAL.—The purpose of this Act is to complete the codification of title 46, United States Code, “Shipping”, as positive law, in accordance with section 285b(1) of title 2, United States Code.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws encompassed by this Act, the intent is to conform to the understood policy, intent, and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions, and other imperfections both of substance and of form.

(c) CUTOFF DATE.—This Act codifies certain laws enacted as of ~~March~~ June 30, 2004. Any law enacted after that date that is inconsistent with this Act, including any law purporting to amend or repeal a provision that is repealed by this Act, supersedes this Act to the extent of the inconsistency.

(d) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, the date of enactment of a provision codified by this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision that is codified.

(e) REFERENCES IN OTHER PROVISIONS.—A reference to a provision of law codified by this Act, including a reference in another law or in a rule, regulation, or order, is deemed to refer to the corresponding provision enacted by this Act.

(f) SAVINGS PROVISIONS.—

(1) RULES, REGULATIONS, AND ORDERS.—A rule, regulation, or order in effect under a provision of law codified by this Act continues in effect under the corresponding provision enacted by this Act.

(2) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision of law codified by this Act

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(i) Miscellaneous.--Section 5501(a) of the Oceans Act of 1992 (Public Law 102-587, 106 Stat. 5084) is amended by adding the following:

"(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1)."

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(except as may be applicable under section 5501(a)(2) of Pub. L. 102-587)